IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 16828 of 2004

Date of Decision : 09.10.2006

Malhara Singh

.... Petitioner

Versus

State of Punjab and others.

... Respondents.

CORAM : Hon'ble Mr. Justice J.S. Khehar,
Hon'ble Mr. Justice S.D. Anand.

Present : Mr. Harsh Kinra, Advocate,
for the petitioner.

Mr. Ashok Aggarwal, Addl. Advocate General, Punjab
for the respondents.

J.S.Khehar, J.(Oral)

We have heard and decided another writ petition today i.e. Civil Writ Petition No. 16819 of 2004 (Rattan Lal versus State of Punjab and others). One of the issues raised for adjudication in Rattan Lal's case (supra) has arisen for consideration in this case as well. We will, therefore, limit the narration of facts, while deciding the present controversy to the limited question which has been pressed at the hands of the learned counsel for the petitioner, that is, the same one, which has been adjudicated upon in Rattan Lal's case (supra).

The petitioner herein was working as Labour Inspector Grade I when First Information Report bearing No. 14 dated 6.3.1998 was registered

against him, under Sections 7 and 13 of the Prevention of Corruption Act, 1988 at Police Station Vigilance Bureau, Patiala. Consequent upon the trial conducted against the petitioner in furtherance of the aforesaid First Information Report, he was convicted by the Special Judge, Ludhiana, by an order dated 14.02.2003.

It was proposed to take action against the petitioner on the basis of his conviction at the hands of the Special Judge, Ludhiana, noticed herein above, and as such, a show cause notice was served upon him vide a Memorandum dated 3.7.2003. The petitioner responded to the aforesaid show cause notice. He was also afforded an opportunity of hearing, which he availed of on 29.8.2003. Having considered the reply furnished by the petitioner and having heard him in person, the competent authority vide a Memorandum dated 15.10.2003 informed the petitioner, that further action against him would be taken only on the disposal of the appeal preferred by him against the judgment dated 14.2.2003 of the Special Judge, Ludhiana.

Through the impugned order dated 14.10.2004, in rectification of the earlier order dated 15.10.2003, the competent authority, has decided to dismiss the petitioner from service.

The question raised is, whether the instant action can be taken without affording an opportunity of hearing to the petitioner after the petitioner had been expressly informed by an order dated 15.10.2003 passed after affording an opportunity of hearing, that no further action would be taken against him till the determination of the appeal preferred by him against the judgment of his conviction rendered by the Special Judge, Ludhiana dated 14.2.2003.

We have already adjudicated upon the issue in hand in Rattan

Lal's case (supra). Following the decision rendered therein, we are satisfied that the impugned order in the present case dated 14.10.2004 (Annexure P/8) also deserves to be set aside inter alia for the reasons recorded therein, namely, that it was imperative for the respondents to afford an opportunity to the petitioner, before an earlier order communicated to him (dated 15.10.2003) was altered to his detriment. The impugned order is, accordingly, set aside. Liberty is, however, granted to the respondents to pass a fresh order in accordance with law after following the rules of natural justice.

Disposed of accordingly.

(J.S. Khehar)
Judge

October 09, 2006
vkd

(S.D. Anand)
Judge